

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

19- CR-227

JOSEPH BONGIOVANNI, and  
PETER GERACE, JR.

Defendants.

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**THIRD AMENDED PROTECTIVE ORDER**

As part of voluntary discovery in this action, the government has provided, and will provide, pre-trial discovery material, including but not limited to: DEA case materials, DEA 6s, DEA case file reports and documents, DEA database searches, DEA internal emails, file material relating to DEA confidential sources, documents and records relating to coconspirators, cell phone extraction data, phone records, bank records, search warrants and photos, FBI 302s and notes, HSI ROIs and notes, and other law enforcement agency reports and numbered discovery materials with Bates page ranges GOV-000000001 through GOV-00149287 inclusive, and additional materials not Bates numbered consisting of Cell Phone Extractions related to the following: Peter Gerace Jr.; Coconspirator 2; Coconspirator 3; and three other individuals. Additional materials that are not Bates numbered include the following: Peter Gerace, Jr.'s Facebook account; three individuals' Facebook accounts; and, an individual's recorded phone calls made from the Erie County Holding Center. The government has requested a protective order limiting the dissemination of this material on the grounds that information contained therein could jeopardize the safety of individuals if it becomes publicly known, and/or could compromise ongoing investigations.

NOW, upon agreement of the parties, it is hereby

**ORDERED**, that the material set forth above shall be used by counsel for the defendant and the defendant solely in connection with pretrial, trial or other proceedings in this action, including any appeals, shall not be disclosed to the public, and shall not be disclosed to third parties by counsel or the defendant except as necessary in connection with pretrial proceedings, trial preparation or other proceedings in this action; and it is further

**ORDERED**, that copies of the material set forth above shall not be provided, or the substance of any such material verbally disclosed, to third parties except those persons or entities employed or engaged for the purpose of assisting in the defense of this action; and it is further

**ORDERED**, that copies of the material set forth above shall not be provided to the defendant absent further order of the Court; and it is further

**ORDERED**, that if counsel for the defendant provides the defendant with access to the above material, counsel shall ensure that the defendant does not have access to a cellular telephone or any other photographic or video- or audio-recording equipment during such review; and it is further

**ORDERED**, that the unauthorized copying, dissemination, and/or posting of copies, or the contents, of the above material on the internet or through any form of social media, or through any other means, shall constitute a violation of the terms of this order; and it is further

**ORDERED**, that nothing in this order shall preclude counsel for the defendant or the defendant from disclosing the material during the course of the litigation of this action in pretrial proceedings, in memoranda filed, at trial or in post-trial proceedings, except that any identifying information should be redacted from any public filings, and internal DEA case information, documents, database searches, internal emails, or other official DEA materials should not be publicly filed; and it is further

**ORDERED**, that in the event the defendant moves to suppress evidence obtained by counsel may refer to pleadings or documents filed under seal as necessary to the resolution of the motion, but shall not attach copies of any sealed pleading or document to any publicly filed pleading; and it is further

**ORDERED**, that counsel for the defendant or the defendant may apply to the Court for an order specifically permitting public disclosure of the above mentioned material; and it is further

**ORDERED**, that any continuing discovery provided pursuant to Rule 16(c) of the Federal Rules of Criminal Procedure shall be governed by the terms of this Order; and it is

further

**ORDERED**, that at the conclusion of the litigation of this action, including any direct appeal, counsel for the defendant and the defendant shall return all copies of the above mentioned material to the government immediately upon request of the government.

DATED: Buffalo, New York, April 5, 2021.

  
HONORABLE MICHAEL J. ROEMER  
United States Magistrate Court Judge